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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/604,749

08/14/2003

Neena Gandhi

30319.361

1748

22828 7590 03/12/2007
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EXAMINER

MI, QIUWEN

ART UNIT

PAPER NUMBER

1655

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/604,749

Applicant(s)

GANDHI ET AL.

Examiner

Qiuwen Mi

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claims 1-8 in the reply filed on 1/10/2007 is acknowledged. The traversal is on the ground(s) that searching for all the claims is not a burden. This is not found persuasive because as stated previously the product as claimed can be made by another and materially different process, such as genetic engineering, thus a different search exists. Applicant is reminded of the extensive literature search in biotechnology which is not co-extensive.

The requirement is still deemed proper and is therefore made FINAL.

Claims 9-13 are withdrawn from further consideration as being drawn to nonelected inventions.

Claim Rejections –35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hibi (US 5,612,077) in view of Sumi et al (US 4,649, 052), Koderá (US 5,093,122), and further in view of Kominato et al (US 3,626,003).

Hibi teaches a method of processing garlic and ajoene-containing edible oil products by adding water to raw garlic (the same as *Allium sativum* (see the instant specification, page 9) bulbs (macerating tissue), and incubated at 4 °C (less than 30 °C) for 3 hours (5 min or longer). Garlic and water was mashed using a food processor (grinding the tissue) (col 5, lines 15-22). pH value was adjusted with sodium hydroxide (alkaline hydroxide) (neutralizing) (col 5, lines 25-30). Ethyl alcohol was added and mixed into the specimens (extracting) (col 7, lines 55-60).

Hibi does not teach evaporating the ethanol, neither does Hibi teach hexane and species *Allium cepa*.

Sumi et al teach the production of garlic powder by concentrating the garlic paste (containing Japanese seasoning alcohol (obtained by saccharifying an intimate mixture of ethyl alcohol) and glutinous rice in 10% alcohol) by vacuum evaporation (col 15, lines 45-55).

Koderá teaches the preparation of S-allylcysteine from garlic and onion (*Allium cepa*, col 2, lines 40-45) by adding 300 ml of water, homogenized for 3 min, adjusted pH using NaOH (col 4, lines 15-22), and extracting with ethanol.

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Kominato et al teach the isolation and extraction of garlic and onion (the same as *Allium cepa*, see instant specification, page 9) (col 5, lines 65-75). Cloves of garlic and onion were grounded, extracted with solvent hexane (defat), and the remainder was used as the raw material (col 6, lines 5-12).

Therefore, it would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to evaporate ethanol in Sumi, use the species *Allium cepa* in Kodera, and use the solvent hexane in Kominato et al to make the ajoene-containing edible oil products in Hibi since Sumi teaches that the method provides the production of non-odorous garlic paste without entailing any emission of the irritant odor of garlic during the course of the products (col 1, lines 43-48); Kodera teaches the invention produces a composition through simple operation at low cost (col 1, lines 55-60); Kominato et al teach the invention plays an important role in the taste and nutrition of the foods (col 2, lines 40-45), and is useful for fat removal of fatty livers and for strengthening livers (col 3, lines 1-5). Since all the methods in yielded beneficial results, one of ordinary skill in the art would have been motivated to make the modifications. The result-effective adjustment in conventional working parameters (e.g., determining an appropriate amount incubation time) is deemed merely a matter of judicious selection and routine optimization which is well within the purview of the skilled artisan.

Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

Conclusion

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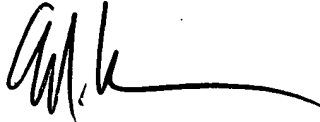
No claim is allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qiuwen Mi whose telephone number is 571-272-5984. The examiner can normally be reached on 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry Mckelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MICHAEL MELLER
PRIMARY EXAMINER